

Court of Common Pleas of Philadelphia County
Trial Division**Civil Cover Sheet**

For Prothonotary Use Only (Docket Number)

MARCH 2022**002081**

E-Filing Number: 2203046336

| | | | |
|---|--|---|--|
| PLAINTIFF'S NAME JAMES BOONE | | DEFENDANT'S NAME NEWSWEEK, LLC, ALIAS: NEWSWEEK | |
| PLAINTIFF'S ADDRESS ONE SOUTH BROAD STREET, SUITE PHILADELPHIA PA 19107 | | DEFENDANT'S ADDRESS 1 WORLD TRADE CENTER FLOOR 72 NEW YORK NY 10007 | |
| PLAINTIFF'S NAME | | DEFENDANT'S NAME NEWSWEEK PUBLISHING, LLC, ALIAS: NEWSWEEK | |
| PLAINTIFF'S ADDRESS | | DEFENDANT'S ADDRESS 1 WORLD TRADE CENTER FLOOR 72 NEW YORK NY 10007 | |
| PLAINTIFF'S NAME | | DEFENDANT'S NAME NEWSWEEK DIGITAL LLC, ALIAS: NEWSWEEK | |
| PLAINTIFF'S ADDRESS | | DEFENDANT'S ADDRESS 1 WORLD TRADE CENTER FLOOR 72 NEW YORK NY 10007 | |
| TOTAL NUMBER OF PLAINTIFFS 1 | TOTAL NUMBER OF DEFENDANTS 7 | COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions | |
| AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00 | COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input checked="" type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other: _____ | | |
| CASE TYPE AND CODE 2L - LIBEL, SLANDER, MISREPRESENT | | | |
| STATUTORY BASIS FOR CAUSE OF ACTION | | | |
| RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER) | | <div style="text-align: center;"> FILED PRO PROTHY MAR 21 2022 S. RICE </div> | |
| | | IS CASE SUBJECT TO COORDINATION ORDER? YES NO | |
| TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>JAMES BOONE</u> Papers may be served at the address set forth below. | | | |
| NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY JOSEPH R. PODRAZA | | ADDRESS ONE S BROAD ST SUITE 1500 PHILADELPHIA PA 19107 | |
| PHONE NUMBER (215) 609-3170 | FAX NUMBER (610) 692-0877 | | |
| SUPREME COURT IDENTIFICATION NO. 53612 | | E-MAIL ADDRESS jpodraza@lambmcerlane.com | |
| SIGNATURE OF FILING ATTORNEY OR PARTY JOSEPH PODRAZA | | DATE SUBMITTED Monday, March 21, 2022, 03:45 pm | |

FINAL COPY (Approved by the Prothonotary Clerk)

EXHIBIT A TO NOTICE OF REMOVAL

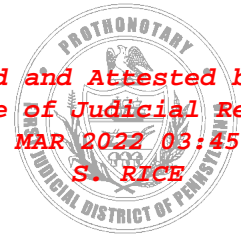
COMPLETE LIST OF DEFENDANTS:

1. NEWSWEEK, LLC
ALIAS: NEWSWEEK
1 WORLD TRADE CENTER FLOOR 72
NEW YORK NY 10007
2. NEWSWEEK PUBLISHING, LLC
ALIAS: NEWSWEEK
1 WORLD TRADE CENTER FLOOR 72
NEW YORK NY 10007
3. NEWSWEEK DIGITAL LLC
ALIAS: NEWSWEEK
1 WORLD TRADE CENTER FLOOR 72
NEW YORK NY 10007
4. NEWSWEEK MAGAZINE LLC
ALIAS: NEWSWEEK
1 WORLD TRADE CENTER FLOOR 72
NEW YORK NY 10007
5. NEWSWEEK HOLDINGS LLC
ALIAS: NEWSWEEK
1 WORLD TRADE CENTER FLOOR 72
NEW YORK NY 10007
6. NEWSWEEK MEDIA LLC
ALIAS: NEWSWEEK
1 WORLD TRADE CENTER FLOOR 72
NEW YORK NY 10007
7. COURTNEY BROGLE
1 WORLD TRADE CENTER FLOOR 72
NEW YORK NY 10007

LAMB McERLANE PC

Joseph R. Podraza, Jr., Esquire (ID No. 53612)
 William H. Trask, Esquire (ID No. 318229)
 One South Broad Street – Suite 1500
 Philadelphia, PA 19107
 (215) 609-3170
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*Filed and Attested by the
 Office of Judicial Records
 21 MAR 2022 03:45 pm
 S. RICE*



Attorneys for Plaintiff

JAMES BOONE,
 One South Broad Street, Suite 1500,
 Philadelphia, PA 19107,

Plaintiff,

v.

NEWSWEEK LLC *d/b/a* NEWSWEEK,
 1 World Trade Center,
 Floor 72,
 New York, New York 10007,

-and-

NEWSWEEK PUBLISHING LLC *d/b/a*
 NEWSWEEK,
 1 World Trade Center,
 Floor 72,
 New York, New York 10007,

-and-

NEWSWEEK DIGITAL LLC *d/b/a*
 NEWSWEEK,
 1 World Trade Center,
 Floor 72,
 New York, New York 10007,

-and-

NEWSWEEK MAGAZINE LLC *d/b/a*
 NEWSWEEK,
 1 World Trade Center,
 Floor 72,
 New York, New York 10007,

-and-

IN THE COURT OF COMMON PLEAS
 OF PHILADELPHIA COUNTY

Term 2022

No.

NEWSWEEK HOLDINGS LLC *d/b/a*
NEWSWEEK,
 1 World Trade Center,
 Floor 72,
 New York, New York 10007,

-and-

NEWSWEEK MEDIA LLC *d/b/a*
NEWSWEEK
 1 World Trade Center,
 Floor 72,
 New York, New York 10007,

-and-

COURTNEY BROGLE,
 1 World Trade Center,
 Floor 72,
 New York, New York 10007,

Defendants.

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascantar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

**Philadelphia Bar Association
Lawyer Referral
and Information Service
One Reading Center
Philadelphia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197**

propiedades u otros derechos importantes para usted.

Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

**Asociacion De Licenciados
De Filadelfia
Servicio De Referencia E
Informacion Legal
One Reading Center
Filadelfia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197**

LAMB McERLANE PC

Joseph R. Podraza, Jr., Esquire (ID No. 53612)
 William H. Trask, Esquire (ID No. 318229)
 One South Broad Street – Suite 1500
 Philadelphia, PA 19107
 (215) 609-3170
 (610) 430-8000

Attorneys for Plaintiff James Boone

| | | |
|--------------------------------------|---|------------------------------|
| JAMES BOONE, | : | |
| One South Broad Street, Suite 1500, | : | |
| Philadelphia, PA 19107, | : | IN THE COURT OF COMMON |
| | : | PLEAS OF PHILADELPHIA COUNTY |
| <i>Plaintiff,</i> | : | |
| | : | |
| v. | : | Term 2022 |
| | : | |
| NEWSWEEK LLC <i>d/b/a</i> NEWSWEEK, | : | No. |
| 1 World Trade Center, | : | |
| Floor 72, | : | |
| New York, New York 10007, | : | |
| | : | |
| -and- | : | |
| | : | |
| NEWSWEEK PUBLISHING LLC <i>d/b/a</i> | : | |
| NEWSWEEK, | : | |
| 1 World Trade Center, | : | |
| Floor 72, | : | |
| New York, New York 10007, | : | |
| | : | |
| -and- | : | |
| | : | |
| NEWSWEEK DIGITAL LLC <i>d/b/a</i> | : | |
| NEWSWEEK, | : | |
| 1 World Trade Center, | : | |
| Floor 72, | : | |
| New York, New York 10007, | : | |
| | : | |
| -and- | : | |
| | : | |
| NEWSWEEK MAGAZINE LLC <i>d/b/a</i> | : | |
| NEWSWEEK, | : | |
| 1 World Trade Center, | : | |
| Floor 72, | : | |
| New York, New York 10007, | : | |

| | |
|------------------------------------|---|
| -and- | : |
| | : |
| NEWSWEEK HOLDINGS LLC <i>d/b/a</i> | : |
| <i>NEWSWEEK</i> , | : |
| 1 World Trade Center, | : |
| Floor 72, | : |
| New York, New York 10007, | : |
| | : |
| -and- | : |
| | : |
| NEWSWEEK MEDIA LLC <i>d/b/a</i> | : |
| <i>NEWSWEEK</i> | : |
| 1 World Trade Center, | : |
| Floor 72, | : |
| New York, New York 10007, | : |
| | : |
| -and- | : |
| | : |
| COURTNEY BROGLE, | : |
| 1 World Trade Center, | : |
| Floor 72, | : |
| New York, New York 10007, | : |
| | : |
| <i>Defendants.</i> | : |
| | : |
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| | : |

COMPLAINT – CIVIL ACTION
(2L : Libel)
(2E: False Light)

Plaintiff, James Boone, brings this action for defamation and presentation of false light against Defendants, the *Newsweek* entity(ies) and Courtney Brogle, a *Newsweek* journalist, and in support thereof, avers as follows:

Introduction

1. This is an action for defamation and false light against the *Newsweek* Defendants and Courtney Brogle, a *Newsweek* journalist, for publications first appearing on April 17, 2021, in which the Defendants widely circulated a false depiction and representations about the Plaintiff, a Philadelphia police officer, which understandably has caused and continues to cause him a great deal of distress, embarrassment, and substantial injury to his reputation.

2. On April 17, 2021, in the *In Focus* section of *Newsweek*'s digital magazine, Defendants published an image of the Plaintiff in uniform, his name and badge clearly visible, with a caption indicating he had been put on leave "after video of him racially profiling a Black man at a diner went viral." A true and correct copy of the posting in the *In Focus* section of *Newsweek*'s digital magazine is attached hereto and incorporated herein as Exhibit "A."

3. On the same day in a separate section of the *Newsweek* digital magazine, the Defendants published the same falsely captioned image of the Plaintiff in connection with a news article describing the unlawful, racist behavior of some other officer, not the Plaintiff, although the caption and photograph make no such distinction. A true and correct copy of the April 17th article is attached hereto and incorporated herein as Exhibit "B."

4. Although prominently depicted in connection with an article describing unlawful racial profiling by a police officer, the Plaintiff is not that officer.

5. Nevertheless, because his falsely captioned photograph appeared in the article, the Plaintiff and his family received numerous inquiries in the immediate wake of

the Defendants' publications from those who saw the Defendants' publications and believed the Plaintiff had been accused of racial profiling and was suspended from his job as a result.

6. Both publications, Exhibits "A" and "B," have been continuously posted and accessible to the public since April 17, 2021.

7. On May 5, 2021, nearly one year ago, Plaintiff did timely notify the Defendants of their willful, actionable misconduct in publishing the April 17th article and the falsely captioned picture of the Plaintiff in *Newsweek's In Focus* section with the hope that Defendants would take immediate responsible steps to mitigate the substantial harm they had caused and continued to cause to Plaintiff and his reputation.

8. After receiving no response to the May 5th letter by any Defendant, counsel for the Plaintiff resent the letter by email on May 10, 2021, to Ms. Nancy Cooper, *Newsweek's* Global Editor in Chief.

9. Sadly, to date, the Defendants have elected to ignore the Plaintiff's May 5th notification and continue to publish their offending falsehoods with full knowledge of the harm they have caused and continue to cause the Plaintiff.

10. And as incredibly, the Defendants continue to permit the uncorrected April 17th article, and photograph posted in the *In Focus* section of *Newsweek*, to be accessible to the public, who remain unaware of the publications' misrepresentations of Plaintiff in a false light or that the defamatory representations conveyed about the Plaintiff by the Defendants' publications are demonstrably and categorically false.

11. Plaintiff now seeks to hold the Defendants accountable for their malicious and willful misconduct directed at him, and to dissuade other media sources from acting similarly in the future.

Parties

12. James Boone is an adult citizen of the Commonwealth of Pennsylvania. Plaintiff has been a member of the Philadelphia Police Department for nearly fifteen (15) years, the last ten (10) years of which he has been assigned to the Department's Highway Patrol Unit, an elite unit comprised of some of the most highly decorated officers in the Department who are considered to be the "Best of the Best." For security and safety reasons, Plaintiff has authorized the use of the address of his counsel listed above for contact and service purposes.

13. Defendants Newsweek LLC, Newsweek Publishing LLC, Newsweek Media LLC, Newsweek Holdings LLC, Newsweek Digital LLC, Newsweek Magazine LLC, and/or *Newsweek*, collectively and/or individually, do business as *Newsweek*. These Defendants are individually and collectively hereinafter referred to as "*Newsweek*." *Newsweek* is an American weekly news magazine founded in 1933 which publishes articles in print and digitally. As a self-described "global news magazine," *Newsweek* claims to "provide[] high quality, in-depth coverage and analysis of the major events shaping our world." *Newsweek*, Book and Periodical Publishing, *Home* [LinkedIn page].LinkedIn, <https://www.Linkedin.com/company/Newsweek>. *Newsweek* further claims, "via its print and digital editions," "to help its readers navigate a rapidly-changing world." *Newsweek* purports to sell approximately 100,000 copies a month and employs

about 60 editorial staffers. *Newsweek* maintains its principal place of business at 1 World Trade Center, Floor 72, New York, New York 10007.

14. Defendant Courtney Brogle graduated from Fordham College at Lincoln Center in 2020, where she majored in film and television with a minor in journalism. In April 2021, Brogle authored the article *Newsweek* published on April 17, 2021, which, as explained below, contains false representations about the Plaintiff. Brogle maintains a business address at 1 World Trade Center, Floor 72, New York, New York 10007.

15. At all times relevant and material hereto, Brogle was an agent, servant, representative and/or employee of *Newsweek*, was acting within the course and scope of her employment with *Newsweek*, and acting on its behalf, under its direction, and/or with its authority.

Jurisdiction and Venue

16. Jurisdiction over the Defendants in the Courts of the Commonwealth of Pennsylvania is proper pursuant to 42 Pa.C.S.A. §§ 5301, 5308 and 5322.

17. Venue is proper in the Court of Common Pleas of Philadelphia County because the requisite harm to Plaintiff's reputation occurred in Philadelphia County where the internet posting in question was accessed by numerous individuals.

Facts

18. On April 17, 2021, the Defendants published at *Newsweek*'s digital site an article written by Defendant Brogle in which the Plaintiff, a distinguished Philadelphia Police Officer, is prominently pictured—with his name tag and Badge number both conspicuously displayed—over a caption in which *Newsweek* prominently makes the following false representations about him: “A Pennsylvania police officer has been put

on leave after video of him ‘racially profiling’ a Black man at a diner went viral.”

Exhibit “B.”

19. In point of fact, Officer Boone did not racially profile anyone at a diner or otherwise.

20. Further, Officer Boone was not even in Vandergrift, Pennsylvania, on April 17, 2021, the time and place the event in the publication is alleged to have occurred.

21. Nor has Officer Boone been placed on leave in connection with the events referenced by *Newsweek* and Brogle, as these events concern another police officer altogether.

22. Simultaneous to the publication of the April 17, 2021 Article, Defendants separately published Plaintiff’s photograph in the *In Focus* section of its digital magazine together with the accompanying caption but without the related article. Exhibit “A.”

23. And due to *Newsweek*’s and Brogle’s reckless journalistic misconduct, Officer Boone’s image with the accompanying caption which conveys false misrepresentations about him are now widely disseminated over social media and the Internet.

24. In fact, Officer Boone’s picture is the lead image upon googling the publication in question, and prominently has been republished at such sites as “From Press” and *Newsweek*’s “Flipboard.”

25. Both Brogle and *Newsweek* have forever scarred Officer Boone as a no-good, racial-profiler without any basis in fact and in violation of basic journalist standards.

26. And the Defendants' widespread smear of Officer Boone has been effective.

27. Since publication on April 17th, Officer Boone has been repeatedly bombarded *via* text, email and social media by those who have reviewed the publication and were misled by the Defendants into believing Officer Boone is a racist and unfit officer.

28. The Defendants' false depiction and misrepresentations about Officer Boone have further understandably caused and continue to cause him a great deal of distress and embarrassment, and have caused substantial injury to his reputation.

29. Particularly given the present political environment in this country, Officer Boone has been tainted with the Defendants' false allegations of racism which has compromised his ability as a law enforcement witness to participate in numerous homicide and other criminal cases pending in Pennsylvania.

30. The Plaintiff's family, including his parents, have been besieged by members of the public who are demanding an explanation for why Officer Boone believes racial profiling is acceptable.

31. Officer Boone has had to request local police protection out of concern for his welfare and that of his wife and two small boys.

32. Officer Boone and his family have had to vary their activities out of concern for their safety.

33. The Plaintiff cannot sleep, is extremely stressed, and was unable to return to duties for a significant period of time after the publications were first posted.

34. Officer Boone has had to seek medical care and fears that he will be unable to continue his community activities, such as coaching youth football and flag football, because Defendants *Newsweek* and Brogle falsely labeled him a racist.

35. And the Defendants' smear of Officer Boone was not an accident.

36. To the contrary, unlike most reputable large American magazines, *Newsweek* has not used fact-checkers since 1996.

37. As a result, *Newsweek* has had to recall several hundred thousand copies of issues, such as *Your Child* in which it was incredibly represented that infants as young as five months old could safely feed themselves Zwieback toasts and chunks of raw carrots. And *Newsweek* has published false representations about the First Lady of Poland, and many others.

38. In fact, *Newsweek's* own website acknowledges having to make corrections to at least 37 of its publications posted in February 2021, 36 of its publications posted in March 2021, and 25 of its publications posted in April 2021.

39. Disturbingly, the Defendants' false and offensive depiction of Officer Boone could have been easily avoided. Not only did *Newsweek* gratuitously append its article describing a specific instance of racial profiling with an unrelated photo of Officer Boone—an image the Defendants gratuitously elected to include—but *Newsweek* also captioned Boone's photo with allegations of another officer's suspected misconduct. *Newsweek's* staggering carelessness in this regard—coupled with the continued, malicious publication of this libel to date—constitute, at minimum, further evidence of their wanton and reckless disregard for the truth and the good reputation of Officer Boone.

40. By letter dated May 5, 2021, which was resubmitted *via* email on May 10, 2021, the Defendants were notified of their egregious conduct and implored to immediately take appropriate measures to mitigate the harm they had caused to Officer Boone. A true and correct copy of the May 5th letter is attached hereto and incorporated herein as Exhibit “C.”

41. Plaintiff’s counsel even offered to make himself available to discuss with the Defendants what measures might be appropriate under the circumstances to begin to address the substantial harm their defamatory conduct has caused and continues to cause Officer Boone.

42. Lamentably, the Defendants declined even the courtesy of a response to the May 5th letter sent on Plaintiff’s behalf and instead elected to permit the April 17th Article, and the *In Focus* posting, with their false representations about Officer Boone to continue to be publicly accessed without correction.

COUNT I
James Boone v. Newsweek and Courtney Brogle
DEFAMATION

43. The representations in the foregoing paragraphs of this pleading are incorporated herein as though set forth in full.

44. At all times relevant and material hereto, the Defendants exercised control and supervision over the subject April 17th article, including (but not limited to) selecting the contents of the article, the Plaintiff’s photograph which was included with the article, and the caption placed below Plaintiff’s photograph.

45. In addition, at all times relevant and material hereto, the Defendants were responsible, in whole or in part, for the publication of the April 17th article, including Plaintiff's photograph and the caption accompanying the photograph.

46. Defendants inspected and edited the April 17th article, including Plaintiff's photograph and the caption accompanying the photograph.

47. Prior to its publication on April 17, 2021, the Defendants were obligated to review the content of the April 17th article, including Plaintiff's photograph and the caption accompanying the photograph.

48. Prior to its publication on April 17, 2021, the Defendants knew and understood the Plaintiff did not racially profile anyone at a diner or otherwise, was not even in Vandergrift, Pennsylvania, on April 17, 2021, the time and place the event is alleged to have occurred, and was not placed on leave by his employer.

49. Nevertheless, the Defendants selected the Plaintiff's photograph and prepared the accompanying caption to be included in the April 17th publication without notifying the public that Plaintiff did not racially profile anyone, was not in Vandergrift, Pennsylvania when the racial profiling allegedly had occurred, and was not placed on leave by his employer for any reason, including for using unauthorized racial profiling.

50. And the Defendants chose where and when Plaintiff's photograph with its accompanying caption appeared in relation to the April 17th article, including electing to separately place the photograph with caption alone in the *In Focus* section of *Newsweek's* digital magazine. Exhibits "A" and "B."

51. The Defendants chose to reference the Plaintiff's photograph with accompanying caption in the April 17, 2021 article and separately in its *In Focus* section,

with the intent of communicating the false message that the Plaintiff was a racial profiler and/or an otherwise corrupt, immoral or dishonest police officer.

52. At all times relevant and material hereto, the Defendants knew and/or acted with a reckless disregard for the fact Plaintiff was never accused of racially profiling, was not even in Vandergrift, Pennsylvania on April 17, 2021 when the event allegedly occurred, and was not placed on leave by his employer.

53. The caption accompanying Plaintiff's photograph included with the April 17th article and separately posted in the *In Focus* section of *Newsweek's* digital magazine, communicating that Plaintiff engages in immoral, dishonest, corrupt, and impermissible racial profiling, was and is in fact false.

54. At all times relevant and material hereto, the Defendants knew that the deliberate misuse of the Plaintiff's photograph, as discussed, to impress on the minds of the average persons among whom it was intended to circulate that the Plaintiff was an immoral, dishonest, and corrupt police office, was in fact false.

55. The Defendants caused the above-discussed photograph of Plaintiff to be published and circulated with a reckless disregard for its falsity.

56. The Defendants published and circulated the above-discussed photograph of Plaintiff with a high degree of awareness of the probable falsity of the image the photograph conveyed about the Plaintiff.

57. The Defendants published and circulated the above-discussed photograph of Plaintiff despite having entertained serious doubts as to the truth of the publication.

58. At all relevant times material hereto, the Defendants acted with knowledge that the defamatory message conveyed through their misuse of Plaintiff's photograph was false.

59. At all relevant times material hereto, the Defendants acted with a reckless disregard for whether the defamatory message conveyed through their misuse of Plaintiff's photograph was false.

60. At all relevant times material hereto, the Defendants had obvious reason to doubt that the veracity of the defamatory message conveyed through their misuse of Plaintiff's photograph.

61. The Defendants acted with an evil motive or with reckless or deliberate indifference to the rights of the Plaintiff by publishing the defamatory message conveyed through their misuse of Plaintiff's photograph.

62. The Defendants maliciously caused the aforementioned defamatory message about Plaintiff to be published and perpetuated even after receipt of Plaintiff's May 5th letter.

63. The Defendants were not privileged or otherwise justified in publishing the Plaintiff's photograph with the accompanying caption.

64. The above-discussed actions of the Defendants were outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized community.

65. As a direct and proximate result of the Defendants' aforementioned malicious actions or failures to act, the Plaintiff was caused to suffer injuries, including damage to his reputation.

66. As a direct and proximate result of the Defendants' malicious actions or failures to act, the Plaintiff was caused to suffer discomfort, trauma, humiliation, embarrassment, emotional distress, anxiety, depression characterized by feeling of despair, hopelessness, and despondency, some or all of which may be permanent and which may continue indefinitely into the future.

67. As a direct and proximate result of the Defendants' malicious actions or failures to act, the Plaintiff was caused to suffer physical symptoms and injury characterized by weight loss, sleeplessness, headaches, appetite loss, and other physical discomforts.

68. As a direct and proximate result of the Defendants' malicious actions or failures to act, the Plaintiff was caused to suffer a loss of life's pleasures which may continue indefinitely into the future.

COUNT II
James Boone v. Newsweek and Courtney Brogle
PRESENTATION OF FALSE LIGHT

69. The representations in the foregoing paragraphs of this pleading are incorporated herein as though set forth in full.

70. The aforementioned misuse of the Plaintiff's photograph in the April 17th publication and in the *In Focus* section of *Newsweek's* digital magazine present gross exaggerations about, and distorted statements regarding, the Plaintiff.

71. The aforementioned misuse of the Plaintiff's photograph in the April 17th article and in the *In Focus* section of *Newsweek's* digital magazine present the Plaintiff in a false light which is deemed highly offensive to the sensibilities of a reasonable person.

72. The Defendants had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the Plaintiff would be placed, particularly after their receipt of the May 5th letter.

73. The Defendants publicized the photograph of the Plaintiff with actual malice, and maliciously continued to do so after their receipt of the May 5th letter.

74. As a direct and proximate result of the Defendants' misconduct, the Plaintiff was caused to suffer those harms and losses as aforesaid.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff James Boone requests that judgment be entered in his favor and against the Defendants, jointly and severally, and awarded relief as follows:

- (a) That Plaintiff be awarded compensatory damages as proven at trial;
- (b) That Plaintiff be awarded punitive damages as proven at trial;
- (c) That Plaintiff be awarded interest and damages for prejudgment delay;
- (d) That Plaintiff be awarded further relief as this Court may deem just and appropriate.

Respectfully submitted:

LAMB MCERLANE, PC

By: /s/ Joseph R. Podraza, Jr.
Joseph R. Podraza, Jr., Esquire (ID No. 53612)
jpodraza@lambmcerlane.com
William H. Trask, Esquire (ID No. 318229)
wtrask@lambmcerlane.com

Date: March 21, 2022

Attorneys for Plaintiff

VERIFICATION

I, James Boone, am the plaintiff in the subject action and verify that the statements in the foregoing document are true and correct to the best of my knowledge, information and belief. I do further understand that these statements are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

3-18-2022

Date

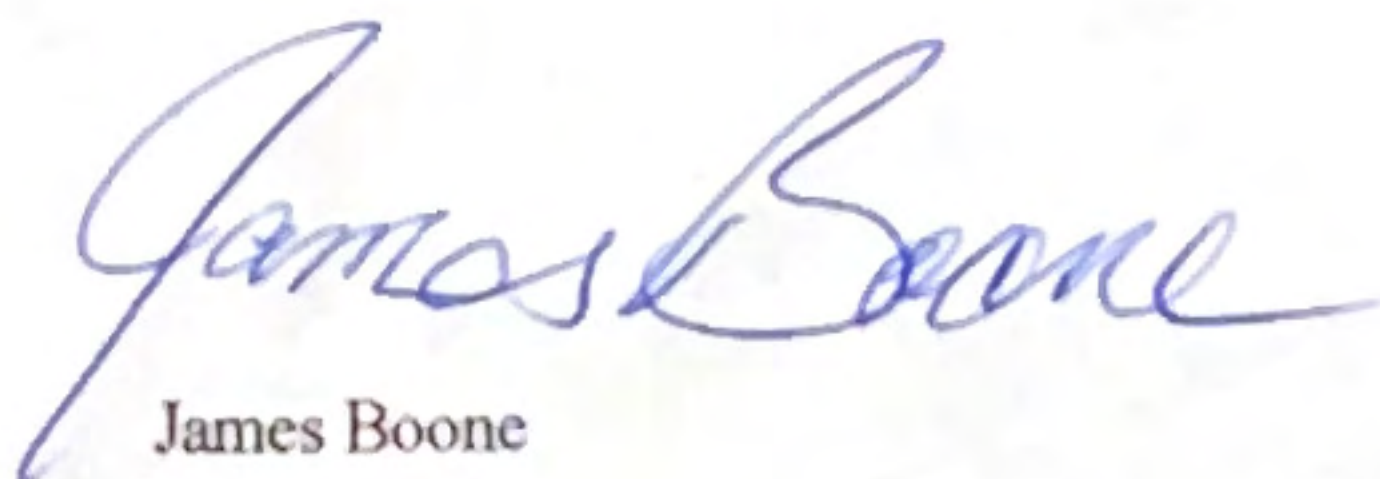

James Boone

Exhibit A



A Pennsylvania police officer has been put on leave after video of him "racially profiling" a Black man at a diner went viral.

Photo credit: BRYAN R. SMITH/AFP/Getty Images



CLICK TO COLLAPSE



Case ID: 220302081

Exhibit B



SUBSCRIBE FOR \$1 >

U.S.

White Cop Accused of 'Racially Profiling' Black Man at Diner in Viral Video

BY **COURTNEY BROGLE** ON 4/26/21 AT 4:41 PM EDT

Black Army Soldier Films Racist Encounter With White Customer At IHOP In Viral Video

Report Ad

01:15



Case ID: 220302081

SHARE



U.S.

VIRAL VIDEO

POLICE

BLACK LIVES MATTER

RACIAL PROFILING

Footage of a white police officer allegedly "racially profiling" a Black man at a local diner has gone viral online.

According to [WPXI-TV](#), Marcus Townsend was eating at G&G Restaurant in Vandergrift, Pennsylvania on Saturday, April 17 with his girlfriend and their service dog. During the meal, he was approached by a white cop regarding the dog's paperwork.

"He had just come in and had a problem with the dog at first. He didn't want the dog in there. He wanted to see service papers," Townsend told the outlet. "We don't carry service papers. It's just not necessary."

"It was just a big ordeal that he wanted me out of the store, basically that's what he wanted from the jump," Townsend told [WTAE](#). "He didn't want to argue. He already had what he wanted to do in the first place so I was just sitting there taking the rap for the whole mess."

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In a video that was posted this weekend to Twitter, the officer demands to see Townsend's identification without telling him why he was called in.

"Do you have any ID on you?" the officer asks.

"No, I don't have to give you my ID, sir," Townsend retorts.

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As the two go back and forth, the cop requests a backup unit and tells Townsend that he is "the superior officer."

Eventually, Townsend concedes and hands over his driver's license. "Racial profiling, man," he says.

"Oh yeah, it's racial profiling!" the officer says. "Oh yeah, 'cause I just don't like Black people ... Everybody knows me knows that I don't care whether you're white, brown or tan."

At this point, Townsend asks the policeman if he is inebriated. "Are you drunk, sir?" he asks.

He claims he is just "tired of his attitude."

In a follow-up video posted to Twitter, Townsend and two cops are outside of the restaurant, the instigating officer asks a colleague via walkie-talkie for any criminal

Case ID: 220302081

information available on Townsend.

"When I got outside, he sat me down and basically wanted to run a criminal background, wanted to see if I had warrants," Townsend told WPXI-TV.

As of Monday, both videos have been viewed nearly 1 million times collectively. Viewers were appalled by the cop's behavior, and several showed concern regarding the allegations that he was inebriated on the job.

"The officer needs to provide *specifically* why he is there and what offense he suspects the gentleman has committed before requesting ID. This man was right in refusing to give his ID," one person tweeted.

"This piece of s**t cop has no business having a badge or a gun," an anonymous viewer wrote. "The other cop should've given him a sobriety test right on the spot. I bet he would've f*****g failed it."

The officer, identified by The Tribune Review as William Moore, had allegedly been brought in after a 911 call claimed a Black man had "smoked marijuana" outside of the establishment that morning. However, G&G Restaurant told WPXI-TV that they neither called the cops nor had any issue with Townsend.



The restaurant later posted about the incident on Facebook. "The entire day we have been deeply saddened by what occurred today," they wrote. "The situation was inexcusable and we completely condemn any type of demeaning behavior towards any individual who walks through our doors."

"Our entire goal is for every person visiting our restaurant to be able to enjoy their entire experience and for us to serve our community," they added. "I would like to tell every single one of our friends and customers to ... always be kind and to always strive to morally be the best that you can be."

According to a statement Police Chief Joseph Caporali made to WTAE, Moore was taken off the schedule pending an internal investigation.

"As a result of this encounter, allegations of possible misconduct of this officer are taken very seriously and the matter is under investigation," Caporali said. "The officer is off schedule until the conclusion of this investigation at which time Vandergrift Borough Council will take appropriate action."

The Tribune Review noted that Moore's suspension does come with pay. The outlet also obtained court records that state he was put on paid leave in 2017 for allegedly assaulting and harassing a 14-year-old boy. He later pleaded guilty to the harassment charges.

This is the latest incident in which a Black patron has been seemingly targeted by others in the restaurant. Earlier this month, a Black Army soldier recorded a white woman insulting him and his coworkers at an IHOP, calling them "s***bags."



A Pennsylvania police officer has been put on leave after video of him "racially profiling" a Black man at a diner went viral.

BRYAN R. SMITH/AFP/GETTY IMAGES

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Case ID: 220302081

EXHIBIT A TO NOTICE OF REMOVAL

Exhibit C

LAMB | M C E R L A N E ^{PC}
ATTORNEYS AT LAW

May 5, 2021

VIA EMAIL SUPPORT@NEWSWEEK.COM

Nancy Cooper
Global Editor in Chief
Newsweek
33 Whitehall Street
New York, NY 10004

Courtney Brogle
Reporter
Newsweek
33 Whitehall Street
New York, NY 10004

RE: YOUR WIDELY DISSEMINATED FALSE REPORT AND DEPICTION OF OFFICER JAMES BOONE AS THE "WHITE COP ACCUSED OF 'RACIALLY PROFILING' BLACK MAN AT DINER IN VIRAL VIDEO" PUBLISHED ON APRIL 26, 2021.

Dear Ms. Cooper and Ms. Brogle:

Please be advised we represent Officer James Boone who is prominently pictured in the above-identified publication under which picture *Newsweek* prominently makes the following false representations about him: "A Pennsylvania police officer has been put on leave after video of him 'racially profiling' a Black man at a diner went viral." In point of fact, Officer Boone did not racially profile anyone at a diner or otherwise. Further, he was not even in Vandergrift, Pennsylvania, on April 17, 2021, the time and place the event is alleged to have occurred. Nor has he been placed on leave.

Nevertheless, due to *Newsweek's* reckless journalistic misconduct, Officer Boone's image with the false misrepresentations about him are now widely disseminated over social media and the internet. It is the lead image upon googling the publication in question, and prominently republished at such sites as "From Press" and *Newsweek's* "Flipboard." *Newsweek* has forever scarred Officer Boone as a no-good, racial profiler without any basis in fact and in violation of basic journalist standards. And do not underestimate how effective and widespread your smear of Officer Boone has been. He is being repeatedly bombarded *via* text, email and social media by those who have reviewed your publication and have been misled to believe Officer Boone is a racist and unfit officer.

Your false depiction and representations about Officer Boone have further understandably caused and continue to cause him a great deal of distress and embarrassment, and have caused substantial injury to his reputation. Particularly given the present political environment in this country, he is now tainted with your false allegations of racism and compromised as a law enforcement witness in numerous homicide and other criminal cases pending in Pennsylvania. His family, including his parents, have been besieged by members of

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Case ID: 220302081

Ms. Cooper and Ms. Brogle
 May 5, 2021
 Page 2 of 2

the public who are demanding an explanation for why Officer Boone believes racial profiling is acceptable. Officer Boone has had to request local police protection out of concern for his welfare and that of his wife and two small boys. He and his family have had to vary their activities out of concern for their safety. He cannot sleep, is extremely stressed, and has been unable to return to duties since the publication was posted. He has had to seek medical care and fears that he will be unable to continue his community activities, such as coaching youth football and flag football, because *Newsweek* has falsely labeled him a racist.

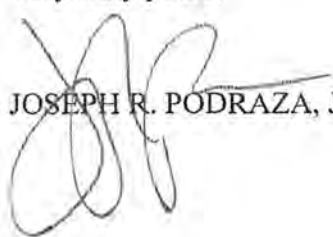
I am told that, unlike most reputable large American magazines, *Newsweek* has not used fact-checkers since 1966. As a result, the magazine has had to recall several hundred thousand copies of issues, such as *Your Child* in which it was incredibly represented that infants as young as five months old could safely feed themselves Zwieback toasts and chunks of raw carrots. I am further aware that *Newsweek* has published false representations about the First Lady of Poland, and many others. In fact, *Newsweek's* own website acknowledges having to make corrections to at least 37 of its publications posted in February 2021, 36 of its publications posted in March 2021, and 25 of its publications posted in April 2021.

Unquestionably, your false and offensive depiction of Officer Boone could have been easily avoided. Not only did *Newsweek* gratuitously append its article describing a specific instance of racial profiling with an unrelated photo of Officer Boone—an image seemingly chosen at random—but *Newsweek* also captioned Boone's photo with allegations of another officer's suspected misconduct. *Newsweek's* staggering carelessness in this regard—coupled with the continued, malicious publication of this libel to date—constitute, at minimum, further evidence of your wanton and reckless disregard for the truth and the good reputation of Officer Boone.

We strongly encourage that appropriate measures to mitigate the harm suffered by Officer Boone be immediately instituted by you and *Newsweek*. If it would be helpful, I am available to discuss what measures might be appropriate under the circumstances to begin to address the substantial harm your defamatory conduct has caused and continues to cause Officer Boone.

You should give this important matter the prompt attention it deserves.

Very truly yours,



JOSEPH R. PODRAZA, JR.

JRP/WT
 cc: Officer James Boone

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